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Ilya Zborovsky
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In re Application of
SEREDA

Application No.: 09/719,487

PCT No.: PCT/IB98/01431

Int. Filing Date: 08 July 1998

Priority Date: 11 June 1998

For: HETEROGENEOUS LIQUID-PHASE
CRYSTALLISATION OF DIAMOND

DECISION ON PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's correspondence filed by facsimile on 16 November 2004 in the United States Patent and Trademark Office (USPTO). The papers are being treated as a petition under 37 CFR 1.181 to consider the copies of a previously filed petition as timely filed, as well as, a renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment.

BACKGROUND

On 20 September 2002, applicant was mailed a decision dismissing applicant's petition under 37 CFR 1.181. Applicant was afforded two months to file any request for reconsideration.

On 16 April 2004, applicant filed the present petitions.

DISCUSSION

I. Petition Under 37 CFR 1.181 to Accept Copy of Previously Filed Petition

Applicant has provided a legible copy of the receipt postcard which shows a USPTO date stamp, "OIPE JC11 Patent & Trademark Office 22 NOV 2002" and clearly identifies in part: 1) Petition, 2) Statement and 4) Decl. as well as listing the serial number and applicant name. The evidence is sufficient to establish that the combined declaration and power of attorney and renewed petition was received in the USPTO on 22 November 2002. Applicant has certified that the copy of the renewed petition and declaration is a true and complete copy of the papers originally filed on 22 November 2002. In addition, the papers are certified as having been deposited for mailing on 19 November 2002 and are therefore a timely response to the decision mailed 20 September 2002. As such, it is proper to **GRANT** applicant's petition under 37 CFR 1.181 at this time.

II. Renewed Petition Under 37 CFR 1.181 to Withdraw The Holding of Abandonment

Applicant's renewed petition contains a statement from counsel attesting on a personal knowledge basis to the previously timely filed response to the notifications mailed on 14 June 2001 of which the purported non-response was the basis of abandonment. As such, it is proper to grant applicant's renewed petition under 37 CFR 1.181.

Further, applicant has provided signed statements as requested detailed the correct inventorship for the present national stage application. A review of applicant's exhibits, as well as the forms PCT/IB/306 contained in the application file reveals that there is a sole inventor for the present national stage application. Applicant has presently provided a combined declaration and power of attorney executed by the sole inventor, Anatoly Pavlovich SEREDA. Therefore all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied on 22 November 2002.

CONCLUSION

Applicant's petitions under 37 CFR 1.181 are **GRANTED**.

The "Notification of Abandonment" (Form PCT/DO/EO/909) mailed 07 June 2002 is hereby **VACATED**.

The application will be given an international filing date of 08 July 1998 under 35 U.S.C. 363 and a date of **22 November 2002** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) indicating a 371 date as detailed above.



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